

Exhibit C

1 So basically that's where we were in the August
2 time frame and we raised those issues and we followed up on
3 August 21st with a very specific letter identifying the
4 entities that we need to have discovery on, including the
5 foreign entities. And we submitted that letter to the court
6 also with my declaration.

7 The trustee's request also incorporates what we
8 believe to be a reasonable time period for foreign expert
9 discovery. The trustee has advised beginning in July and
10 August that we don't have the complete record of documents
11 necessary for the subpoena targets for foreign discovery
12 that we've identified in Costa Rica and the British Virgin
13 Islands. It is true that there are some references in
14 earlier Rule 2004 productions in this case to certain
15 entities. However, in consulting with Costa Rica and
16 British Virgin Island counsel, and as Your Honor is aware,
17 the trustee needs to have clear documentary evidence
18 supported by attorney affidavits to meet the requirements of
19 those jurisdictions for foreign discovery. And we can't do
20 that until we have all the documents produced by the
21 defendants.

22 So on the issue of good faith, Legacy Capital has
23 offered on behalf of all the producing defendants that they
24 believe they'll be done with document production the end of
25 November. We haven't even really started to talk about a

1 THE COURT: Sure.

2 MR. FISHER: The Legacy case.

3 THE COURT: You knew I'd be angry. You've been
4 around me enough.

5 MR. FISHER: But Your Honor, I'm frankly, in an
6 all candor, confused at the direction of your anger because
7 it is the trustee, just to give you an example, because --
8 let me show it and not say it. Okay?

9 THE COURT: Okay.

10 MR. FISHER: In our existing case management
11 order, which was entered in June '22, June 2022, that's ECF
12 Number 270. We are now 16 months into discovery. In that
13 scheduling order, there is a defined term for international
14 discovery. The trustee knew more than a year ago that he
15 would need some international discovery, and it sets
16 deadlines for international discovery. Those deadlines have
17 come and gone, and the trustee has not issued a single
18 request for any foreign discovery whatsoever.

19 What the order says, Your Honor, is that -- and
20 I'm quoting now from Paragraph 3B. Towards the bottom of
21 that paragraph, it says in the order, "To the extent that
22 responses to international discovery are not received by the
23 fact discovery cutoff date, the parties may seek extensions
24 of the deadlines set forth herein."

25 It's fine. If they had issued foreign discovery

1 requests and they're still waiting on information, I think
2 it would be appropriate for them to come to this court and
3 say we need a little bit more time. But they haven't issued
4 a single foreign discovery request, Your Honor, and the
5 foreign sources from which they're seeking discovery,
6 Spectrum, they've known about them since 2010. Leads,
7 they've known about them since 2020. BDO Seidman, they've
8 known about them since 2020. Citadel, they've known about
9 them since 2010. HTM, they've known about them since 2015.
10 PricewaterhouseCoopers, they've known about them since 2015.
11 And when I say 2015, Your Honor, there's a reference in our
12 case management order to initial disclosures having been
13 exchanged among the parties in 2015.

14 Discovery in this case is not mature. We have not
15 been doing nothing for 16 months. We are the ones, Your
16 Honor, who, when Mr. Oliver sent us all those discovery
17 requests, we actually emailed him and said, let's not stand
18 on ceremony and wait for us to issue formal objections.
19 Let's start talking about search terms so we can get you
20 documents as quickly as possible. And we're almost done.
21 We've produced 125,000 pages of documents in the Legacy
22 case, Your Honor.

23 So one point I want to make is the trustee has not
24 been diligent. The trustee has not been diligent, and the
25 international discovery situation is an example of that.

1 have them planned. You can have them scheduled. Y'all can
2 talk to each other a little better --

3 MR. FISHER: But that's exactly --

4 THE COURT: -- including Mr. Oliver. He's hearing
5 me. I'm just as aggravated at him.

6 MR. FISHER: But, Your Honor, I think that's
7 exactly the point. What they want is 18 months of fact
8 discovery. And what that means is in about a year, they'll
9 start taking depositions.

10 THE COURT: No, they're going to be taking
11 deposition before March 22nd, or you're going to know who's
12 going to have their deposition by March 22nd. It may not be
13 taken, but it's going to be we have scheduled deposition X
14 on March 23rd, and you're going to report to me on that.

15 MR. FISHER: Okay.

16 THE COURT: If you don't want Judge Maas, you can
17 have me.

18 MR. FISHER: Your Honor, I'm happy to have Your
19 Honor. I'm happy to have Judge Maas. I just need the case
20 to go forward. And so we have told Mr. Oliver and we are
21 busting our chops to complete our entire good faith document
22 production by the end of November. We've told him that
23 consistently since August, and we've been rolling out
24 documents to him.

25 THE COURT: Mr. Fisher, you do need to remember

1 up too. But Mr. Oliver and all of you, I want exactly what
2 you asked for. I want exactly the response.

3 MR. TABAK: Your Honor, that's the other point.
4 If the trustee really had a problem, he could have gone to
5 Judge Mass a long time ago. But he wasn't interested in
6 moving the case forward at all. Now Your Honor, you have
7 proposed that we come back in March, and I think that your
8 idea makes a lot of sense with one sort of way to really
9 move this forward.

10 THE COURT: Okay.

11 MR. TABAK: On the issues of good faith, we have
12 substantially completed our production. That's done. The
13 Legacy defendants really are the other defendants that have
14 documents from that time period. They have produced, I
15 don't know, I think more than 100,000 pages. They'll be
16 finished by the end of March or, excuse me, the end of
17 November. Excuse me. Not March. We can take the
18 depositions and finish the depositions in that part of the
19 case by the end of March.

20 The alter ego case is sprawling. It's different.
21 That's where the trustee has refused to engage, and that's
22 going to take more time. So my suggestion is, if you are
23 going to extend based on the letters that are in front of
24 you, which is not really a full record --

25 THE COURT: Right.

1 MR. TABAK: -- extend the good faith case so that
2 the end of discovery is that March date that you mentioned.
3 We'll also come in and meet on the 2020 case at the same
4 time. It won't be a firm deadline, but we've heard Your
5 Honor, we hear you very clearly that the parties should have
6 accomplished substantial progress and be closer to
7 finishing, but we think we can finish. And the trustee has
8 never said that he cannot finish the good faith case by
9 February, much less March 20th, I believe it was 22nd, late
10 March, whatever it is.

11 THE COURT: Okay.

12 MR. TABAK: So let's finish the good faith case
13 then, and we'll do our best with the other case. I
14 understand it's further behind. It may not finish. But
15 that seems to me to make sense for everybody. It meets your
16 goal, Your Honor, of giving us deadlines and having us move
17 forward. It meets, frankly, our goal. My clients hear from
18 counterparties. I understand, when they hear from
19 counterparties who are not lawyers who say that this is a
20 fraud case, it was a little disquieting for the trustee to
21 describe this as a, quote, "fraud" case.

22 But my clients hear from counterparties who say,
23 why are you wrapped up in this fraud case. My clients are
24 only alleged to be subsequent transferees, and this affects
25 their business that this case, this adversary proceeding is

1 to what the history is here, I welcome the opportunity to
2 have a line by line response because if Your Honor had the
3 record of what has transpired, I dare say your feelings
4 would be probably as agitated, but a lot more focused, and
5 that's not the court's fault.

6 THE COURT: Very good.

7 Mr. Oliver?

8 MR. OLIVER: I think, Your Honor, we've certainly
9 addressed our position on inability to, even in the good
10 faith case, meet a March 31st end of discovery deadline.

11 THE COURT: It's March 22nd. It's not March 31st.

12 MR. OLIVER: March 22 deadline. And I think
13 that's been covered in the various submissions to the court.
14 Is there anything particular that Your Honor would like me
15 to address? There was a lot of statements there.

16 THE COURT: No. I just wanted to know if you had
17 something else to say because I am --

18 MR. OLIVER: I do not. I do not.

19 THE COURT: I'm kicking the can down the road.
20 Honestly, I started out at 18 months after I read
21 everything. We're down to six months. But Mr. Oliver, you
22 are going to give me a line by line on March 22nd and the
23 response to that line by line. And I agree with Mr. Tabak.
24 You should start with the good faith, and I need to know
25 exactly what you've asked for, and I need to know and

1 exactly when and exactly what the response was. And then
2 everybody else will respond to that. And I want to know the
3 response and what was given.

4 Enough is enough. Y'all are professionals. Pick
5 up the damn phone and talk to each other. And defendants,
6 work together to get the information. You have other cases
7 in your life. You need to start doing this together. The
8 first three-month status conference will be January the
9 24th, and at that, I want to come in and say, I've heard
10 that you all given stuff. I want it line by line. I gave
11 this. I took this. I gave this.

12 Mr. Oliver, your office needs to be organized and
13 be able to do it that way, too.

14 MR. OLIVER: One clarification, Your Honor. We
15 believe that there is a --

16 THE COURT: Six months from January -- six months
17 from December 31st.

18 MR. OLIVER: I just want to get the court's --
19 clarification from the court on international discovery. We
20 have taken the position, due to the delayed document
21 production, that we have not been able to serve foreign
22 subpoenas. And I want to see how the court is conditioning
23 that with respect to --

24 THE COURT: I heard that argument. I heard that
25 argument carefully. And it actually said, to the extent

1 that parties avail themselves of international discovery
2 procedures, they will not deem to have waived prejudice or
3 otherwise altered their right to conduct discovery under
4 applicable federal rules. To the extent that responses to
5 the international discovery are not received by the fact
6 discovery cutoff date, I'm changing the fact discovery
7 cutoff date. You have that contract now on Spectrum. Is
8 this having to do with the Spectrum Global Fund?

9 MR. OLIVER: It has to do with Spectrum Global
10 Funds and Costa Rica entity HTM and Piero DiCapua.

11 THE COURT: Are you --

12 MR. OLIVER: The question is, I understand there's
13 the provision in the case management order about pending
14 responses, but we haven't served the discovery yet because
15 we don't have the documents necessary to put together an
16 affidavit.

17 THE COURT: Mr. Fisher said you did have that
18 contract.

19 MR. OLIVER: We just got it on September 29th.

20 THE COURT: Okay. Then get it done ASAP.

21 MR. OLIVER: Okay. Understood.

22 THE COURT: And I will extend that, and that would
23 have even met the other deadline. That would have met
24 December the 31st. So get it done. Get it done.

25 MR. OLIVER: Okay. Understood.